



**Jim Lamoureux**  
Senior Counsel

SBC Services, Inc.  
1401 I Street NW, Suite 400  
Washington, D.C. 20005  
Phone 202 326-8895  
Fax 202 408-8745

September 12, 2005

**VIA ELECTRONIC SUBMISSION**

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street SW  
Washington DC 20554

**Re: In the Matter of Petition of Qwest Corporation for Forbearance Pursuant to  
47 U.S.C. § 160(c) in the Omaha Metropolitan Statistical Area  
WC Docket No. 04-223**

Dear Ms. Dortch:

On September 9, 2005, Thomas Hughes, Jim Lamoureux, and Jan Price of SBC met with Ian Dillner, Jeremy Miller, Terri Natoli, Tom Navin, and Julie Veach, of the Wireline Competition Bureau to discuss various issues pertaining to this proceeding. First, consistent with its Reply Comments in this proceeding, SBC addressed the legal authority of the Commission to grant the sort of relief requested by Qwest. The Commission clearly has the authority under the Act to grant such relief.

In addition, SBC indicated its concern about any threshold standards or tests that the Commission adopts in this proceeding to evaluate the appropriateness or level of relief it will grant to Qwest. In particular, although no one appears to have specifically advocated the use of incumbent local exchange carrier ("ILEC") wire centers as an appropriate means by which to gauge the level of competition in Omaha, SBC would be concerned if the Commission were to consider adopting a test tied to ILEC wire center data. Such an ILEC wire center test would be an inappropriate gauge of market competition, for a number of reasons.

First and foremost, ILEC wire centers bear no relationship to the manner in which competitors actually enter and serve markets. Rather, wire centers describe physical characteristics of telecommunications network architectures that were commonplace as ILECs built their networks to provide traditional telephone service across the country. In simplest terms, a wire center is the physical location of a local switching facility. *See* 47 C.F.R. § 54.5; *see also* Alliance for Telecommunications Industry Solutions Telecom Glossary 2000, available at <http://www.atis.org/tg2k/tlg2k.html> ("wire center: the location of one or more local switching systems; a location where customer loops converge.") Those physical locations, and the surrounding geographic areas served by the switches housed in those locations, are a convenient means of delimiting the physical boundaries and attributes of ILEC networks, but they are poor tools for ascertaining the boundaries of competitive markets and thus the level of competition in such markets. Indeed, the Commission has in the past used much broader geographic areas—

most notably MSAs—to ascertain the degree of competition in various markets. *See, e.g., Access Charge Reform, Fifth Report and Order and Further Notice of Proposed Rulemaking*, 14 FCC Rcd 14221, CC Docket No. 94-1 ¶ 72 (rel. Aug. 27, 1999); Applications of NYNEX Corp. and Bell Atlantic Corp. for Consent to Transfer Control, *Memorandum Opinion and Order*, 12 FCC Rcd. 19985 ¶ 43 (rel. Aug. 14, 1997).<sup>1</sup>

Second, no empirical evidence ever has been presented that suggests that, other than anomalies created by regulatory decisions, ILECs or CLECs enter or focus their service offerings on individual ILEC wire centers. To the contrary, CLECs have strenuously argued, and the Commission has agreed, that competitive carrier switches cover broader geographic areas than individual ILEC wire centers. *See Unbundled Access to Network Elements, Order on Remand*, 20 FCC Rcd. 2533, WC Docket No. 04-313 ¶ 207 (rel. Feb. 4, 2005) (“Competitive LECs are able to serve larger geographic areas because they can deploy high capacity switches and use dedicated transport in combination with those switches to serve customers throughout a wider geographic area, beyond the particular wire center where the switch is located.”) Even as network architecture characteristics, ILEC wire centers have no practical meaning to the networks of other carriers (*e.g.*, cable operators, non-cable facilities based CLECs, wireless carriers), and, even assuming it is appropriate to use a network attribute as the foundation for measuring competition, there is no *a priori* logical compulsion to base a test for market competitiveness on the networks of the ILECs. Indeed, since the relevant question is whether markets have achieved a level of competitive entry such that the original ILEC should no longer be considered the “incumbent,” there is just as much logical justification to use characteristics of competitive carrier networks (*e.g.*, MTAs served by wireless carriers). In short, there simply is no logical or factual basis for relying on ILEC wire centers for measuring levels of competition.

Whatever test the Commission ultimately uses in this proceeding, it must take care to limit that test to the particular facts of this proceeding. The Commission should not establish any universally applicable benchmark or set a “one size fits all” precedent based upon evidence pertaining to a single market. The characteristics of retail markets are distinct on many levels, and should be considered on a case-by-case basis. Moreover, much of the debate in this proceeding appears to have focused on market statistics that are unique to the Omaha area and are likely not applicable to other markets. As competition continues to flourish and evolve throughout the country, the Commission will surely be called upon to evaluate similar requests

---

<sup>1</sup> The use of such broader geographic areas becomes even more appropriate with the continued success of VoIP, deployment of which transcends traditional wireline network boundaries.

for deregulatory relief. It should take special care in this proceeding to not unduly limit the manner in which it will evaluate such requests in the future.

If you have any questions, please do not hesitate to contact me at (202) 326-8895.

Sincerely,

/s/ Jim Lamoureux  
Senior Counsel  
SBC Services, Inc.